

Title 18: Human Services

Part 25: Program Administration

Part 25 Chapter 1: Introduction

Rule 1.1 Mission and Authority. The mission of the Adult Protective Services (APS) program is to protect vulnerable persons whose safety and protection may be adversely affected by abuse, neglect, self-neglect or exploitation; raise public awareness; and educate mandated reporters of their reporting responsibilities. The Adult Protective Services Program is a bureau of the Mississippi Department of Human Services, and finds its enabling legislation is the Mississippi Vulnerable Persons Act (Title 43, Chapter 47 of the Mississippi Code, specifically 43-47-5/7).

Source: *Miss. Code Ann.* § 43-47-5 (Rev. 2018).

Rule 1.2 Terms Defined in the Statute. The Mississippi Vulnerable Persons Act defines the following terms. Whenever these terms are used they will be used as intended in the Mississippi Vulnerable Persons Act.

A) "Abuse" means the commission of a willful act, or the willful omission of the performance of a duty, which act or omission contributes, tends to contribute to, or results in the infliction of physical pain, injury or mental anguish on or to a vulnerable person, the unreasonable confinement of a vulnerable person, or the willful deprivation by a caretaker of services which are necessary to maintain the mental or physical health of a vulnerable person. "Abuse" includes the sexual abuse delineated in §43-47-18. "Abuse" does not mean conduct that is a part of the treatment and care of, and in furtherance of the health and safety of, a patient or resident of a care facility, nor shall it mean a normal caregiving action or appropriate display of affection. "Abuse" includes, but is not limited to, a single incident [§43-47-5].

B) "Care facility" means:

1. Any institution or place for the aged or infirm as defined in, and required to be licensed under, the provisions of § 43-11-1 et seq.;
2. Any long-term care facility as defined in § 43-7-55;
3. Any hospital as defined in, and required to be licensed under, the provisions of § 41-9-1 et seq.;
4. Any home health agency as defined in, and required to be licensed under, the provisions of § 41-71-1 et seq.;
5. Any hospice as defined in, and required to be licensed under, the provisions of Chapter 85 of Title 41; and
6. Any adult day services facility, which means a community-based group program for adults designed to meet the needs of adults with impairments through individual plans of care, which are structured, comprehensive, planned, nonresidential programs providing a variety of health, social and related support services in a protective setting, enabling participants to live in the community. Exempted from this definition shall be any program licensed and certified by the Mississippi Department of

Mental Health and any adult day services program provided to ten (10) or fewer individuals by a licensed institution for the aged or infirm.

(C) "Caretaker" means an individual, corporation, partnership or other organization which has assumed the responsibility for the care of a vulnerable person, but shall not include the Division of Medicaid, a licensed hospital, or a licensed nursing home within the state.

(D) "Court" means the chancery court of the county in which the vulnerable person resides or is located.

(E) "Department" means the Department of Human Services or its subgrantees.

(F) "Emergency" means a situation in which:

1. A vulnerable person is in substantial danger of serious harm, death or irreparable harm if protective services are not provided immediately;
2. The vulnerable person is unable to consent to services;
3. No responsible, able or willing caretaker, if any, is available to consent to emergency services; and
4. There is insufficient time to utilize the procedure provided in § 43-47-13.

(G) "Emergency services" means those services necessary to maintain a vulnerable person's vital functions and without which there is reasonable belief that the vulnerable person would suffer irreparable harm or death, and may include taking physical custody of the person.

(H) "Essential services" means those social work, medical, psychiatric or legal services necessary to safeguard a vulnerable person's rights and resources and to maintain the physical or mental well-being of the person. These services shall include, but not be limited to, the provision of medical care for physical and mental health needs, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical mistreatment and protection from exploitation. The words "essential services" shall not include taking a vulnerable person into physical custody without his consent, except as provided for in § 43-47-15 and as otherwise provided by the general laws of the state.

(I) "Exploitation" means the illegal or improper use of a vulnerable person or his resources for another's profit, advantage or unjust enrichment, with or without the consent of the vulnerable person, and may include actions taken pursuant to a power of attorney. "Exploitation" includes, but is not limited to, a single incident.

(J) "Illegal use" means any action defined under Mississippi law as a criminal act.

(K) "Improper use" means any use without the consent of the vulnerable person, any use with the consent of the vulnerable person if the consent is obtained by undue means, or any use that deprives the vulnerable person of his ability to obtain essential services or a lifestyle to which the vulnerable person has become accustomed and could have otherwise afforded.

(L) "Lacks the capacity to consent" means that a vulnerable person, because of physical or mental incapacity, lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, including, but not limited to, provisions for health care, food, clothing or shelter. This may be reasonably determined by the department in emergency situations; in all other instances, the court shall make the determination following the procedures in §§ 43-47-13 and §43-47-15 or as otherwise provided by the general laws of the state.

(M) "Neglect" means either the inability of a vulnerable person who is living alone to provide for himself the food, clothing, shelter, health care or other services which are necessary to maintain his mental or physical health, or failure of a caretaker to supply the vulnerable person with the food, clothing, shelter, health care, supervision or other services which a reasonably prudent person would do to maintain the vulnerable person's mental and physical health. "Neglect" includes, but is not limited to, a single incident.

(N) "Protective services" means services provided by the state or other government or private organizations, agencies or individuals which are necessary to protect a vulnerable person from abuse, neglect or exploitation. They shall include, but not be limited to, investigation, evaluation of the need for services and provision of essential services on behalf of a vulnerable person.

(O) "Sexual penetration" shall have the meaning ascribed in § 97-3-97.

(P) "Undue means" means the use of deceit, power, or persuasion over a vulnerable person resulting in the vulnerable person being influenced to act otherwise than by his own free will or without adequate attention to the consequences.

(Q) "Vulnerable person" means a person, whether a minor or adult, whose ability to perform the normal activities of daily living or to provide for his or her own care or protection from abuse, neglect, exploitation or improper sexual contact is impaired due to a mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging. The term "vulnerable person" also includes all residents or patients, regardless of age, in a care facility. The department shall not be prohibited from investigating, and shall have the authority and responsibility to fully investigate, in accordance with the provisions of this chapter, any allegation of abuse, neglect or exploitation regarding a patient in a care facility, if the alleged abuse, neglect or exploitation occurred at a private residence.

Source: *Miss. Code Ann.* § 43-47-5 (Rev. 2018).

Rule 1.3 Terms Defined for Casework and Policy Purposes. In addition to the terms defined in the Mississippi Vulnerable Persons Act, APS personnel will encounter other terms that are commonly used in the course of providing APS services. Terms not defined in the law will be given their normal meaning as used in the practice of social work. The term Division of Adult Protective Services.

Source: *Miss. Code Ann.* § 43-47-5 (Rev. 2018).

Rule 1.4 Categories of Maltreatment to Which Adult Protective Service Responds. The Division of Adult Protective Services (APS) responds to reports of abuse (including sexual abuse) neglect and exploitation of vulnerable persons in the State of Mississippi (§ 43-47-7).

Source: *Miss. Code Ann.* § 43-47-5 (Rev. 2018).

Rule 1.5 Eligibility for Adult Protective Services. Any person in Mississippi who meets the criteria for being a vulnerable person as defined in § 43-47-5(q) is eligible for services provided by Adult Protective Services. The definition of vulnerable person is also found in Policy 1.2 (q).

Source: *Miss. Code Ann.* § 43-47-5 (Rev. 2018).

Rule 1.6 Coordination with Other Agencies. It is the policy of Adult Protective Services to work cooperatively with other agencies and community partners. The staff and physicians of local health departments, mental health clinics and other public and private agencies are required by §43-47-9 to cooperate fully with Adult Protective Services in the performance of its duties. It is likewise the policy of APS to cooperate fully with these agencies to carry out the investigations and provision of services to vulnerable persons in Mississippi.

When APS receives a report of abuse or neglect of a vulnerable person in a licensed hospital or licensed nursing home, APS shall immediately refer that report to the State Department of Health for further investigation.

In certain situations, the courts may authorize a third party to enter the residence of a vulnerable person to examine the vulnerable person. The courts may also authorize third parties to examine the financial records of a vulnerable person. Finally, the Department of Human Services may contract with an agency or private physician to provide evaluations of vulnerable persons. It is the policy of APS to cooperate with these properly authorized third parties to carry out investigations and provide services to vulnerable persons.

Source: *Miss. Code Ann.* § 43-47-7 (Rev. 2018).

Rule 1.7 Access by APS Personnel to In-house Legal Counsel. The Department of Human Services (DHS) maintains in-house legal counsel with expertise in the subject matter of Adult Protective Services. The vendor will report to MDHS State Office, Aging and Adult Services, Adult Protective Services staff for any and all interpretation of policies, laws or procedures when necessary. All legal matters must be directed to MDHS State Office for resolution.

Source: *Miss. Code Ann.* § 43-47-7 (Rev. 2018).

Rule 1.8 Access by APS Personnel to Alleged Victims of Maltreatment. Designated APS personnel shall have the authority to access alleged victims of maltreatment for the purposes of carrying out the responsibilities set forth in the Mississippi Vulnerable Persons Act, specifically §43-47-9. Additionally, as provided in §43-47-9, when the caretaker of a vulnerable person refuses reasonable access as described in the Act, APS may petition the court for an order for injunctive relief enjoining the caretaker from interfering with the investigation.

Source: *Miss. Code Ann.* § 43-47-7 (Rev. 2018).

Rule 1.9 Access by APS personnel to Documents and Information. Designated APS personnel shall have timely access to documents that will enable them to carry out the investigation of alleged maltreatment of a vulnerable person as described in §43-47-9 of the Act and for purposes of providing protection for the alleged victim. Documents may be obtained from individuals, agencies and institutions, including federal or other public benefit programs. With supervisory approval, APS personnel may utilize in-house counsel or other legal resources at the disposal of APS to obtain these documents by subpoena or other legal means.

Source: *Miss. Code Ann.* § 43-47-7 (Rev. 2018).

Rule 1.10 Gen+ Program. During the course of conducting an investigation or monitoring an Individual Services Plan, APS personnel will facilitate the MDHS Gen+ program and will document actions taken to introduce the Gen+ program in the files of the investigation or case.

Part 24 Chapter 2 Personnel Standards

Rule 2.1 Conflict of Interest. Whenever APS personnel may have or be perceived to have a close relationship with either the alleged victim of maltreatment, the caretaker, or the reporter of alleged maltreatment, the potential for conflict of interest exists. The existence of either real or perceived conflict of interest is of concern to APS, and all instances of perceived conflict of interest shall be reported to the supervisor of the person having the conflict of interest.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 2.2 Dual Roles. APS personnel shall not take unfair advantage of their relationship with the client in a way that would exploit the client to advance the personal, religious, political or business interests of the APS personnel. To that end, APS personnel shall not engage in dual or multiple relationships with clients or former clients. In instances when a dual role may be unavoidable, it shall be the responsibility of the APS staff member to report the real or potential dual role to the staff member's supervisor. The National Association of Social Workers Code of Ethics defines dual roles as existing whenever social workers relate to clients in more than one relationship, whether professional, social, or business.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 2.2 Receiving and Handling Inquiries or Complaints about Cases. Inquiries by the media or legislators regarding reported existing or potential cases shall be handled promptly. APS staff and personnel who receive an inquiry or complaint regarding any case, whether open or closed, shall be reported to the designated person or office within the Department of Human Services.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 2.4 Screening of APS Personnel. APS shall establish minimum criteria for suitability for all personnel positions and subgrantees.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 2.5 Complaints and inquiries. APS shall establish a procedure for the handling and disposition of complaints regarding the handling and disposition of cases as well as for handling complaints about APS personnel.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 2.6 Initial Hiring of Caseworkers. APS shall develop a procedure addressing the initial hiring of caseworkers. This procedure shall stipulate the minimum desired qualification for newly hired caseworkers, including education, prior training and experience.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 2.7 Training of Caseworkers. Caseworkers and supervisors in APS upon hire shall receive training on topics including the Mississippi Vulnerable Persons Act, policies of APS and procedures of APS as soon as practical after immediate hiring. Caseworkers shall not perform home visits until they have completed training and have completed a period of mentoring and observation. All caseworkers and supervisors shall have continuing education at least annually on topics to be developed by APS.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 2.8 Safety of APS Personnel. It is recognized that there is some risk to APS personnel who conduct investigations involving vulnerable persons. To help protect the safety of APA personnel in the field, the following steps shall be taken:

1. The whereabouts of all caseworkers in the field shall be known at all times. Caseworkers shall report their departure from the office to the field, and shall inform their supervisor of their itinerary when out of the office. Caseworkers in the field shall report changes in their itinerary to the supervisor.
2. MDHS shall provide cell phones for the use of caseworkers. Caseworkers are not to provide their personal cell phone number to any vulnerable person, caregiver, guardian or any other person involved in the investigation or care of a vulnerable person.
3. Business cards of APS personnel shall not contain their personal address, email, land line telephone number or cell phone number.
4. Before beginning an investigation, the caseworker shall discuss with his or her supervisor any known or suspected safety risks. Reasonable efforts shall be taken to identify any safety risks that may be inherent in an investigation, including but not limited to

biohazards. Known or suspected safety risks shall be considered in the planning of any investigation. Caseworkers will not knowingly be placed in situations that may pose immediate danger or risk without adequate protection.

Immediate danger includes but is not limited to cases that may involve risk of death, irreparable harm or significant loss of assets or property.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Part 25 Chapter 3 Case Administration Policies

Rule 3.1 Initial Action upon Receiving a Report.

Upon receiving a report of a vulnerable person in need or potentially in need of protective services, an investigation shall be initiated within the following time frames and a preliminary report made to the office of the Attorney General (§43-47-7 and §43-47-9):

Criteria	Time from Reporting to Initiation of Investigation
Vulnerable person is not in immediate danger (Priority II cases)	72 hours
Vulnerable person is in immediate danger (Priority I cases)	48 hours

Source: *Miss. Code Ann.* § 43-47-5 (Rev. 2018).

Rule 3.2 Caseload. All cases and caseworkers shall be subject to supervisory review. APS regional directors and the Division Director shall have the authority to allocate and adjust caseloads in the best interest of the Division.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 3.3 Services to Be Provided. The Mississippi Vulnerable Adults Act provides that the following service may be provided by APS to vulnerable persons:

1. Investigation and determination if maltreatment has occurred (§43-47-7, §43-47-9)
2. Provision of protective services in accordance with an Individual Services Plan (ISP) (§43-47-11, §43-47-13).
3. Provision of immediate essential services to alleviate an immediate danger if the provisions of §43-47-15 are met.

No other services by APS are authorized by the Act. However, APS may provide other services not specified in the Act, so long as those services are in accordance with the mission APS are not being performed by another agency.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 3.5 Completion of Investigation. Investigations shall be completed within 30 days of initiation. The timeline for investigation completion may be extended for up to 30 additional days with the approval of the caseworker's supervisor. The reason(s) for extension shall be documented in the case file. Cases that have not been completed within 60 days must be reported to the appropriate regional director.

Investigations shall be considered completed when one or more of these has occurred:

1. The service plan is completed,
2. The vulnerable person's situation is stabilized,
3. The conditions causing immediate danger to the vulnerable person have been resolved or mitigated,
4. Another agency has assumed responsibility for the vulnerable person,
5. The vulnerable person has moved out of Mississippi,
6. The vulnerable person having the ability to consent refuses continued services, and
7. The death of the vulnerable person.

Completion of the investigation, including the reason for completion, shall be documented in the case file and approved by the caseworker's supervisor.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 3.6 Supervisory Review. Review of cases by supervisors shall take place at significant junctures in the progress of cases. In all cases the review and approval of the supervisor shall be noted in the case file.

Key junctures requiring supervisory review, approval and documentation are:

1. Initial intake and case assignment,
2. Development of investigation plan,
3. Determination of findings,
4. Service provision planning,
5. If legal action is considered,
6. If escalated action is considered, and
7. Case closure.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 3.7 Involuntary Action. In the case that the caseworker and the caseworker's supervisor have determined that the following conditions all exist:

1. That all reasonable efforts have been expended to secure the consent of a vulnerable person and those efforts have failed, and
2. That reasonable cause exists that the vulnerable person is being abused, neglected or exploited, and
3. The vulnerable person lacks the capacity to consent to voluntary services, then the designated officials at APS may petition the court for an order to provide protective services (§43-47-13).

In the case that the caseworker and the caseworker's supervisor have determined the vulnerable person consents to protective services and it is also determined that the caretaker of that person is interfering with the provision of protective services, APS may petition the court for an order enjoining the caretaker from interference (§43-47-11).

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).

Rule 3.8 Confidentiality. Mississippi and federal statutes provide for the confidentiality of the identity of individuals and information obtained as a result of an APS intervention. Confidentiality of information is important to protect the privacy of individuals, to encourage the reporting of abuse and neglect, and to facilitate the obtaining of information. APS personnel shall not release data that would be harmful or detrimental to the vulnerable person or that would identify or locate a person who, in good faith, made a report or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction (§43-47-7).

With supervisory approval, reports or photographs made as part of an investigation may be released to:

1. A physician who is treating a person whom the physician believes may be abused, neglected or exploited as provided in §43-47-5,
2. A duly authorized agency having the responsibility to care for the person who is the subject of the report,
3. A grand jury or a court of competent jurisdiction,
4. A district attorney or other law enforcement official.

Information contained in reports or investigation records shall not be disclosed to the vulnerable person's guardian or care giver or any other person who is a perpetrator or alleged perpetrator of the vulnerable person's abandonment, exploitation, abuse or neglect.

Source: *Miss. Code Ann.* § 43-45-1-31 (Rev. 2013).